

ARIZONA DEPARTMENT OF ECONOMIC SECURITY
Division of Children Youth and Families
Comprehensive Medical and Dental Program
Notice of Privacy Practices

Effective April 14, 2003

- I. THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT CHILDREN COVERED BY THE COMPREHENSIVE MEDICAL AND DENTAL PROGRAM (CMDP) MAY BE USED AND DISCLOSED AND HOW ACCESS TO THIS INFORMATION MAY BE OBTAINED. PLEASE REVIEW IT CAREFULLY.**
- II. CMDP HAS A LEGAL DUTY TO SAFEGUARD ALL PROTECTED HEALTH INFORMATION (PHI) OF CHILDREN COVERED BY CMDP.**

This Notice of Privacy Practices describes how CMDP may use and disclose the protected health information that pertains to children covered by CMDP to carry out treatment, payment or health care operations and for other purposes that are permitted or required by law. It also describes the rights children covered by CMDP and their legal guardians have, to access and control their protected health information. “**Protected health information**” (PHI) is information about individual members, including demographic information, that may identify the member and information that relates to their past, present or future physical or mental health condition and related health care services.

CMDP is required to abide by the terms of the Notice of Privacy Practices. Upon enrollment, the notice must be provided to new enrollees within 10 days of enrollment. CMDP may change the terms of the notice at any time. CMDP must provide notice to its members within 60 days of a material revision to the notice. The new notice will be effective for all PHI that CMDP maintains at that time. A copy of this or any revised Notice of Privacy Practices may be obtained by requesting a copy from CMDP’s Privacy Officer (**See Section V. Complaints for more information about contacting the Privacy Officer**).

III. HOW WE MAY USE AND DISCLOSE THE PHI OF CHILDREN COVERED BY CMDP

The CMDP uses and discloses health information for many different reasons. Following are examples of the types of uses and disclosures of PHI pertaining to children covered by CMDP that CMDP is permitted to make. These examples are not meant to be exhaustive, but to describe the types of uses and disclosures that may be made by CMDP.

A. Uses and Disclosures of PHI Where No Authorization is Needed.

PHI pertaining to children covered by CMDP may be used and disclosed by CMDP and others outside of the Program that are involved in the care and treatment of these children for the purpose of providing health care services. PHI may also be used and disclosed to pay health care bills for services provided to children covered by CMDP and to support the operations of CMDP.

- 1. Treatment:** CMDP may use and disclose PHI to provide, coordinate, or manage health care and any related services. We may disclose PHI to physicians, nurses, pharmacists and other health care personnel who

provide health care services, as well as to foster parents, group homes and others who are involved in the care of these children. CMDP may also use PHI in determining if a service is medically necessary.

In addition, CMDP may disclose PHI to another physician or health care provider (e.g., a specialist or laboratory) who becomes involved in the member's care by providing assistance to a physician regarding the health care diagnosis or treatment.

2. **Payment:** PHI will be used, as needed, to make or obtain payment for health care services provided to children covered by CMDP. This may include activities such as: making a determination of eligibility or coverage for insurance benefits; reviewing services provided for medical necessity; and undertaking utilization review activities.

We may also disclose or use PHI of children covered by CMDP in coordinating payments with other responsible parties such as: Children's Rehabilitative Services (CRS), Regional Behavioral Health Authorities (RBHA's), the Arizona Health Care Cost Containment System (AHCCCS) or other insurance providers, or to obtain reimbursement for health care services provided.

3. **Health care operations:** CMDP may use or disclose, as needed, PHI in order to support the business activities of the program. These activities include, but are not limited to, quality assessment activities, utilization management, training of staff, research, resolving grievances and conducting or arranging for other business activities.

For example, CMDP may disclose PHI to the Arizona Health Care Cost Containment System (AHCCCS) for quality assurance purposes.

We may also disclose PHI to our accounting staff, attorneys, consultants, and others in order to deal with legal matters that affect us, or to improve our practices.

B. **Uses and Disclosures of PHI Based Upon the Written Authorization of the Legal Guardian.**

Some uses and disclosures of PHI that pertain to children covered by CMDP will be made *only* with written authorization, unless otherwise permitted or required by law as described below. The legal guardian may revoke this authorization, at any time, in writing, except to the extent that an action has already been taken in reliance on the use or disclosure indicated in the authorization.

The legal guardian has the opportunity to agree or object to the use or disclosure of all or part of a child's PHI. If the legal guardian is not present or able to agree or object to the use or disclosure of the PHI, then CMDP may, using professional judgment, determine whether the disclosure is in the child's best interest. In this case, only the PHI that is relevant to a child's health care will be disclosed.

Unless the legal guardian objects, CMDP may disclose PHI to a person who is involved in a child's health care if the information disclosed directly relates to that person's involvement. If the legal guardian is unable to agree or object to such a disclosure, CMDP may disclose such information as necessary, if CMDP determines that it is in the child's best interest based on our professional judgment.

CMDP may use or disclose PHI that pertains to children covered by CMDP to notify or assist in notifying a family member, personal representative or any other person who is responsible for the child's care of location, general condition or death of children covered by CMDP. Finally, CMDP may use or disclose PHI to an authorized public or private entity to assist in disaster relief efforts and to coordinate uses and disclosures to family or other individuals involved in the health care of children covered by CMDP.

C. **Other Permitted and Required Uses and Disclosures That May Be Made Without the Authorization of the Legal Guardian or Without the Opportunity to Object.**

1. CMDP may use or disclose PHI in an emergency treatment situation.
2. **Required By Law: CMDP** may use or disclose PHI to the extent that the use or disclosure is required by law. The use or disclosure will be made in compliance with the law and will be limited to the relevant requirement of the law. If required by law, the legal guardian will be notified of any such uses or disclosures.
3. **Public Health:** CMDP may disclose PHI for public health activities and purposes to a public health authority that is permitted by law to collect or receive the information. The disclosure will be made for the purpose of controlling disease, injury or disability. CMDP may also disclose PHI, if directed by the public health authority, to a foreign government agency that is collaborating with the public health authority.
4. **Communicable Diseases: CMDP** may disclose PHI, if authorized by law, to a person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading the disease or condition.
5. **Health Oversight:** CMDP may disclose PHI to a health oversight agency for activities authorized by law, such as audits, investigations, and inspections. Oversight agencies seeking this information include government agencies that oversee the health care system, government benefit programs, other government regulatory programs and enforcement of civil rights laws.
6. **Abuse or Neglect:** CMDP may disclose PHI to a public health authority that is authorized by law to receive reports of child abuse or neglect.
7. **Food and Drug Administration:** CMDP may disclose PHI to a person or company required by the Food and Drug Administration to report adverse events, product defects or problems, biological product deviations, or to track products; to enable product recalls; to make repairs or replacements; or to conduct post marketing surveillance, as required.
8. **Legal Proceedings:** CMDP may disclose PHI in the course of any judicial or administrative proceeding, in response to an order of a court or administrative proceeding (to the extent such disclosure is expressly authorized), and in certain conditions in response to a subpoena, discovery request or other lawful process.
9. **Law Enforcement:** CMDP may also disclose PHI, so long as applicable legal requirements are met, for law enforcement purposes. These law enforcement purposes include: (1) legal processes as otherwise required by

law, (2) limited information requests for identification and location purposes, (3) to determine whether a law violation has occurred where a child is suspected to be a victim of a crime and disclosure is in the child's best interest, (4) a medical emergency and it is likely that a crime has occurred.

10. **Coroners and Funeral Directors:** CMDP may disclose PHI to a coroner or medical examiner for identification purposes, determining cause of death or for the coroner or medical examiner to perform other duties authorized by law. CMDP may also disclose PHI to a funeral director, as authorized by law, in order to permit the funeral director to carry out necessary duties.
11. **Research:** CMDP may disclose PHI to researchers when their research has been approved by an institutional review board that has reviewed the research proposal and established protocols to ensure the privacy of the PHI of children covered by CMDP.
12. **Prevention of a threat to health or safety:** Consistent with applicable federal and state laws, CMDP may disclose PHI if the program believes that the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public. CMDP may also disclose PHI if it is necessary for law enforcement authorities to identify or apprehend an individual.
13. **Inmates:** CMDP may use or disclose PHI if the child is an inmate of a correctional facility for related health and safety purposes.
14. **Health Oversight Activities:** CMDP may disclose PHI to a health oversight agency for oversight activities authorized by law, including audits; civil, administrative or criminal investigations; inspections; licensure actions; or other activities necessary for oversight of the health care system, government programs and compliance with civil rights laws.

IV. CMDP MEMBERS' RIGHTS

A. The following is a statement of the rights that pertain to children covered by CMDP with respect to PHI, and a brief description of how a legal guardian may exercise these rights.

1. **A legal guardian has the right to inspect and copy the PHI of children covered by CMDP.** This means a legal guardian may inspect and obtain a copy of PHI about the member covered by CMDP that is contained in a designated record set, as defined by federal law, for as long as CMDP maintains the PHI.

Under federal law, however, the legal guardian may not automatically inspect or copy the following records: psychotherapy notes; information compiled in reasonable anticipation of, or use in, a civil, criminal, or administrative action or proceeding; and PHI that is subject to law that prohibits access to PHI. In some circumstances, the member's legal guardian may have a right to have this decision reviewed. Please contact CMDP's Privacy Officer if there are questions about access to records.

2. **A legal guardian has the right to request a restriction of the PHI of a child covered by CMDP.** This means the legal guardian may ask CMDP not to use or disclose any part of the PHI for the purposes of treatment, payment or health care operations. The legal guardian may also request that

any part of the PHI not be disclosed to family members, relatives or friends who may be involved in the member's care for notification purposes as described in the Notice of Privacy Practices. The request must state the specific restriction requested and to whom the restriction should apply.

3. **CMDP is not required to agree to a restriction that is requested.** If CMDP believes it is in the member's best interest to permit use and disclosure of the PHI, the PHI will not be restricted. If CMDP does agree to the requested restriction, CMDP may not use or disclose the PHI in violation of that restriction unless it is needed to provide emergency treatment, is required by law or court order, or the restriction terminates pursuant to law. A legal guardian may request a restriction by submitting the request in writing to CMDP's Privacy Officer at the address designated on the last page of this document.
4. **The legal guardian has the right to request to receive confidential communications from CMDP by alternative means or at an alternative location.** CMDP will accommodate reasonable requests. CMDP may also condition this accommodation by asking for specification of an alternative address or other method of Contact. CMDP will not request an explanation from the legal guardian as to the basis for the request. Please make the request in writing to CMDP's Privacy Officer.
5. **Children covered by CMDP may have the right to have their PHI amended.** This means the legal guardian may request an amendment of the PHI of children covered by CMDP in a designated record set for as long as CMDP maintains this information. This statement must provide a reason to support the requested amendment. CMDP has 60 days from receipt of a request to act upon it or state in writing that up to a 30 day extension is needed, the reason(s) for the delay and the anticipated due date for a written response. In certain cases, CMDP may deny a request for an amendment. If CMDP denies a request for amendment, the legal guardian, has the right to file a statement of disagreement with CMDP's Privacy Officer. If CMDP continues to deny the request, CMDP must prepare a rebuttal to the member's statement and will provide the legal guardian with a copy of any such rebuttal. Please contact CMDP's Privacy Officer with any questions about amending medical records.
6. **The legal guardian has the right to receive an accounting of certain disclosures CMDP has made if any, of the PHI of children covered by CMDP.** This right applies to disclosures for purposes other than treatment, payment or health care operations as described in this Notice of Privacy Practices. It excludes disclosures we may have made to the legal guardian and disclosures that the legal guardian authorized. It also excludes releases authorized by federal law or required by law. The member has the right to receive specific information regarding these disclosures that occurred after April 14, 2003. The right to receive this information is subject to certain exceptions, restrictions and limitations.
7. **The legal guardian has the right to obtain a paper copy of this notice from CMDP,** upon request, even after agreeing to accept this notice electronically.

V. Complaints

The legal guardian may complain to CMDP or to the Secretary of the U.S. Department of Health and Human services if a child covered by CMDP believes that the Program has violated their privacy rights. The legal guardian may file a complaint with CMDP by notifying CMDP's Privacy Officer of their complaint. CMDP will not retaliate against a child or legal guardian, for filing a complaint.

You may contact CMDP's Privacy Officer, Margo Amparan, at (602) 351-2245, ext. 7010, or by e-mail at MAmparan@azdes.gov for further information about the complaint process. Complaints can also be mailed to:

Attention: CMDP Privacy Officer
P.O. Box 29202, Site Code 942C
Phoenix, Arizona 85038-9202

Under the Americans with Disabilities Act (ADA), the Department must make a reasonable accommodation to allow a person with a disability to take part in a program, service, or activity. For example, this means that if necessary, the Department must provide sign language interpreters for people who are deaf, a wheelchair accessible location, or enlarged print materials. It also means that the Program will take any other reasonable action that allows you to take part in and understand a program or activity, including making reasonable changes to an activity. If you believe that you will not be able to understand or take part in a program or activity because of your disability, please let us know of your disability needs in advance if at all possible. This document is available in alternative formats by contacting (602) 351-2245 ext. 7010.